

Appl. No. : 09/997,895
Filed : November 30, 2001

REMARKS

Claims 11, 12, 14, 15 and 30-35 have been amended by this paper and Claims 61-63 have been added. Claims 58-60 have been canceled by this paper, and Claims 1-10, 13, 28, 29 and 36-57 were previously canceled. Hence, by this paper, Claims 11, 12, 14-27, 30-35 and 61-63 are presented for examination.

The specific changes to the amended claims are shown in the above section entitled AMENDMENTS TO THE CLAIMS. On this set of pages, the insertions are underlined while the ~~deletions are stricken through~~.

Applicant expresses appreciation to the Examiner for his time spent in a personal interview with attorneys for Applicant on October 27, 2005. A summary of that interview is submitted herewith.

In an Office Action mailed August 2, 2005, Claims 11, 12, 14-27, 30-35 and 58-60 were rejected under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner stated that "It is unclear and indefinite to claim a position of the separation chamber by a first and a second portions in relation to the antechamber." By this paper, independent Claims 11, 12 and 15 have been amended to remove reference to the first and second portions of the separation chamber. Applicant submits that this amendment removes the basis for the rejection of these claims under 35 U.S.C. § 112. Furthermore, since the remaining claims rejected under 35 U.S.C. § 112 each depend from one of independent Claims 11, 12 and 15, Applicant submits that these dependent claims also define subject matter which satisfies the requirements of 35 U.S.C. § 112.

In the Office Action mailed August 2, 2005, Claims 11, 12, 14-27, 30-35 and 58-60 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kellogg et al. (U.S. Patent No. 6,063,589, hereinafter referred to as "Kellogg"). During the interview with the Examiner on October 27, 2005, Applicant's counsel presented proposed claim language defining structure such that the portion of the first component received in the metering chamber that exceeds a controlled amount is delivered through the metering chamber and outward therefrom such that when the substrate is rotated, the metering chamber delivers the controlled amount of the liquid component to the assay zone. The Examiner agreed that such a feature, in combination with the

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other features of the independent claims, would distinguish at least over the embodiments of Figures 8 and 9A-H of the Kellogg reference.

In accordance with the personal interview, independent Claims 11, 12 and 15, as presented herein, include at least the above-identified features. Applicant respectfully submits that there is neither any teaching nor suggestion in Kellogg of such a feature, in combination with the other features of those independent claims. Accordingly, Applicant respectfully submits that independent Claims 11, 12 and 15 define subject matter which is patentable over the Kellogg reference. Furthermore, since Claims 14, 16-27, 30-35 and 61-63 each depend from one of independent Claims 11, 12 and 15, Applicant respectfully submits that these dependent claims also define subject matter that is patentable over the art of record for at least the reasons set forth above with respect to the independent claims.

In view of the foregoing, Applicant respectfully submits that Claims 11, 12, 14-27, 30-35 and 61-63, as presented herein, define subject matter that is patentable over the art of record. Accordingly, Applicant respectfully submits that these claims are now in conditions for immediate allowance and such prompt allowance of the same is respectfully requested.

CONCLUSION

The Applicant has endeavored to address all of the concerns of the Examiner in view of the recent Office Action directed to the above-identified application. Accordingly, amendments to the claims, the reasons therefor and arguments in support of the patentability of the pending claims are presented above.

Any claim amendments which are not specifically discussed in the above remarks are not made for patentability purposes, and it is believed that the claims would satisfy the statutory requirements for patentability without the entry of such amendments. Rather, these amendments have only been made to increase claim readability, to improve grammar, and to reduce the time and effort required of those in the art to clearly understand the scope of the claim language. Any new claims presented above are of course intended to avoid the prior art, but are not intended as replacements or substitutes for any cancelled claims. They are simply additional specific statements of inventive concepts described in the application as originally filed.

In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment

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to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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By: Drew S. Hamilton

Drew S. Hamilton
Registration No. 29,801
Attorney of Record
Customer No. 20,995
(619) 235-8550

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